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rule of law which makes the person to whom a ministerial duty is due liable to the person who owes the duty would frequently render the possession of the right a burden rather than a benefit, and would strangely reverse the position of the parties.

Lastly, when a corporation, however honest its conduct, registers a forged deed of transfer, both the corporation and the person who bona fide presented it and assumed dominion over the certificate of the original registered owner are liable to him for conversion. *Pratt v. Taunton Copper Co.* (1877) 123 Mass. 110. When he obtains judgment for reinstatement against the corporation, Prof. Ames says, that upon principles of obvious justice, he must hold his claim against the converter as a constructive trustee for the benefit of the company. 17 Harv. Law Rev. 543. This doctrine is sound, but it cannot be applied to the principal case because the defendant did not receive the certificate of the original owner.

SITUS OF ROLLING STOCK FOR TAXATION UNDER DUE PROCESS CLAUSE.—When personal property consisted mainly of personal ornaments, household utensils, and farm and trade implements, the rule became incorporated in the law that *mobilia sequuntur personam*, and personal property was taxed at the domicile of the owner. This maxim still remains. *Cesena Sulphur Co. v. Nicholson* (1876) 1 Ex. Div. 428; *Winston v. Salem* (1902) 131 N. C. 404; *Pacific R. R. v. Cass Co.* (1873) 53 Mo. 17, 31; Cooley Taxation 3d ed. 86; see also *Marye v. B. and O. R. R.* (1888) 127 U. S. 117, 123, and *Pullman's Car Co. v. Pa.* (1891) 141 U. S. 18. But as the value and relative importance of personal property have increased, the States have also taxed personal property where it is located, without regard to the domicile of the owner. Such statutes have been sustained by the courts, both as to tangible personalty, *Boston Loan Co. v. Boston* (1884) 137 Mass. 332; *Brown v. Houston* (1885) 114 U. S. 622; and as to many kinds of intangible personalty, 5 COLUMBIA LAW REVIEW 50; *Adams Express Co. v. Ohio* (1897) 165 U. S. 194, 166 U. S. 185, 223; *Tappan v. Merchants National Bank* (1873) 19 Wall. 490; *Board of Assessors v. Comptoir National* (1903) 191 U. S. 388. This situation obviously leads in many cases to double taxation. Although double taxation is not illegal, *Coe v. Errol* (1886) 116 U. S. 517, nevertheless from an economic or ethical standpoint it is highly undesirable, and therefore the courts have tried, so far as possible, to minimize it. Thus they have refused to read the fiction *mobilia sequuntur personam* into a statute relative to tangible personal property. *People ex rel. Hoyt v. Commissioners* (1861) 23 N. Y. 224. But further than this the State courts have not gone; where the intention to tax personalty outside of the jurisdiction has been clearly expressed, they have uniformly upheld the validity of the statutes. *Bemis v. Boston* (Mass. 1867) 14 Allen 366; *Commonwealth v. Am. Dredging Co.* (1888) 122 Pa. St. 386.

Additional difficulty has been found in applying these rules of taxation to that important species of personal property, rolling

stock. As this is, in most instances, constantly moving from State to State, it has no actual situs, and if it is to be taxed at all, some fictitious situs must be assigned to it for that purpose. In Indiana the legislature at one time treated rolling stock as real estate, and taxed it accordingly, *Railroad v. State* (1865) 25 Ind. 177. Some States, considering it personal property, have applied the old maxim *mobilia sequuntur personam*, and have taxed a railroad for its entire rolling stock at its principal office, whether the railroad lies wholly within the State, *Detroit v. Wayne, Circuit Judge* (1901) 127 Mich. 604; *Railroad v. City Council of Alexandria* (Va. 1867) 17 Gratt. 176; see note in 56 Am. Dec. 523, 535, or is an interstate road. *Railroad v. Morgan Co.* (1852) 14 Ill. 163; *Appeal Tax Court v. Railroad* (1878) 50 Md. 417. Other States have assigned to it a different fictitious situs and tax such proportion of the total rolling stock of a railroad, as the mileage over which it operates in the State, or in each county, bears to the total mileage. *Railroad v. Backus* (1892) 133 Ind. 625; *Pullman's Car Co. v. Pa.* supra. Or have taxed the average number of cars in the State during the period of taxation. *American Refrigerator Transit Co. v. Hall* (1899) 174 U. S. 70.

These conflicting theories were simplified by the decision of the Supreme Court in *D. L. and W. R. R. v. Pa.* (1905) 199 U. S. 341, which held that a statute specifically taxing a domestic corporation at its principal office for tangible personal property (coal) permanently located without the State, was a taking of property without due process and unconstitutional. In a recent case the same court has reaffirmed this principle, and applying it to rolling stock, has held that a State can tax a car company only for such portion of its rolling stock as is used within the State, and that the proper method of ascertaining this is the one sustained in *Pullman's Car Co. v. Pa.* supra; *Union Refrigerator Transit Co. v. Ky.* (1905) 26 Sup. Ct. 36. These cases mark the extinction of the maxim *mobilia sequuntur personam* in the taxation of tangible personal property situated in a different State from the owner's domicile. They apply to this species of property the simple, just rule taxing it, like realty, only at its situs. If it has no actual situs, as in the case of rolling stock, then the fiction of averages, the nearest approximation to actual situs, controls. They remove the possibility of double taxation of tangible personalty. Intangible personalty, alone, still remains subject to double taxation, unless the case of *Goodsite v. Lane*, 6 COLUMBIA LAW REVIEW, 127, shows a tendency toward a doctrine similar to that of the principal case.

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PRIVILEGED COMMUNICATIONS BETWEEN ATTORNEY AND CLIENT.—The rule recognizing the privilege in communications between attorney and client was sedulously guarded at common law and confined originally to statements made to members of the legal profession in regard to the bringing or defending of a suit, *Williams*